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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,878	03/30/2001	Takao Takahashi	450100-4438.2	7136

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EXAMINER

NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 12/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,878

Applicant(s)

TAKAHASHI ET AL.

Examiner

HUY T NGUYEN

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/075,628.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Nitta et al (5,381,275).

Regarding claims 8 -14, Nitta discloses a data recording method (Figs. 1 and 7) for recording data onto a recording medium (8) to be reproduced by a reproduction device having a buffer memory for temporarily storing the data, comprising the steps of receiving a variable bit-rate data stream (1) column 3, lines 8-50); detecting a continuous recordable area of at least a predetermined size on said recording medium (the available space on the medium corresponds to a specified and predetermined recording time period (Figs 3,4 and 7) ; said predetermined size being determined on the basis of the length of time for which stored data can be output from said buffer memory with no additional data being stored to the buffer; and recording the data in the continuous recordable area (column 9, line 53 to column 10, line 35) and reproducing the recorded data at the rate of recorded data (column 10, lines 52-68).

Further for claims 13 and 14, Nitta further teaches combining the inserted data with recorded data adjacent to the inserted data to form a data unit of at least said predetermined size (column 4, lines 65-68);

3. Claims 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Shikakura (5,594,598).

Regarding claims 8-14 Shikakura discloses a data recording method (Figs. 3)(column 9, line 1 to column 10, line 52) for recording data onto a recording medium (8) to be reproduced by a reproduction device having a buffer memory (76) for temporarily storing the data, comprising the steps of receiving a variable bit-rate data stream (1) column 3, lines 8-50); detecting a continuous recordable area of at least a predetermined size on said recording medium (the available space on the medium corresponds to a specified recording time period or predetermined time unit, column 10, lines 52-65) ; said predetermined size being determined on the basis of the length of time for which stored data can be output from said buffer memory with no additional data being stored to the buffer; and recording the data in the continuous recordable area (column 10, lines 46-52); and reproducing the recorded data from the medium (column 11, line 65 to column 12, lines 15) at a maximum rate of recorded data .

Further for claims 13 and 14, Shikakura teaches inserting means for inserting data (column 5, lines 60 to column 6, lines 5).

Response to Arguments

4. Applicant's arguments filed 02 September 2003 have been fully considered but they are not persuasive.

Applicant argues that Nitta and Shikakura fail to teaches a predetermined size . In response the examiner disagrees .It is noted that both Nitta and Shikakura teach a predetermined size corresponding to the time of reproducing data . Further Nitta and Shikakura teach the recoded data in the predetermined size is reproduced with maximum rate corresponding to a reproducing speed .

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (703) 305-4775. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2600 TECH CENTER customer service whose telephone number is (703) 306-0377.


HUY T NGUYEN
PRIMARY EXAMINER

H.N
November 27, 2003